

**Notice of Allowability**

Application No.

09/914,765

Examiner

Sandra Saucier

Applicant(s)

CHRISTENSEN ET AL.

Art Unit

1651

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendments and arguments filed 12/8/05.
2. ☒ The allowed claim(s) is/are 1,5-8,10,11,14-29,31-44 and 50.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

Sandra Saucier  
Primary Examiner  
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An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with J. Vockrodt on 1/24/06.

The application has been amended as follows:

IN THE SPECIFICATION

The first paragraph reads:

This is a 371 filing of PCT/DK00/00092 filed 03/06/2000.

IN THE CLAIMS

Claim 5, "A" has been replaced by ---The---.

Claim 5, "wherein any dilution of the sample has been performed" has been replaced by

---further comprising diluting the sample---

Claim 6, "A" has been replaced by ---The---.

Claim 7, "A" has been replaced by ---The---.

Claim 7, "wherein the proportion of dying sperm cells is also determined" has been replaced with

---further comprising determining the dying sperm cells---

Claims 8, 10, 11, 14, 15, "A" has been replaced by ---The---.

Claim 15, line 2, "total concentrations" has been replaced by  
---a total concentration of---.

Claims 16-20, , "A" has been replaced by ---The---.

Claim 20, "wherein the sample or a subsample is combined" has been  
replaced by

---further comprising combining the sample or a subsample---.

Claims 21-29, , "A" has been replaced by ---The---.

Claim 29, "BSA" has been replaced by ---bovine serum albumin---.

Claims 31-44, , "A" has been replaced by ---The---.

Claim 45 has been cancelled.

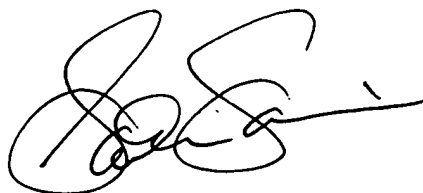
Claim 50, , "A" has been replaced by ---The---.

Any inquiry concerning this communication or earlier communications  
from the examiner should be directed to Sandra Saucier whose telephone  
number is (571) 272-0922. The examiner can normally be reached on Monday,  
Tuesday, Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the  
examiner's supervisor, M. Wityshyn can be reached on (571) 272-0926. The  
fax phone number for the organization where this application or proceeding is  
assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Sandra Saucier', with a stylized flourish at the end.

Sandra Saucier  
Primary Examiner  
Art Unit 1651